



June 5, 2013

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: GN Docket No. 12-353, Comment Sought on the Technological Transition of the Nation's Communications Infrastructure; GN Docket No. 13-5, Technology Transitions Policy Task Force Notice of *Ex Parte* Meeting

Dear Ms. Dortch:

On June 3, 2013, Harold Feld, Senior Vice President, and Jodie Griffin, Staff Attorney, of Public Knowledge (PK) met with Rebekah Goodheart, Legal Advisor to Acting Chairwoman Clyburn.

Public Knowledge expressed concern with the process by which Verizon has built-out its new Voice Link service to replace its copper-based service in certain areas impacted by Hurricane Sandy. PK noted reports that FCC representatives have told concerned customers that Verizon is legally permitted to switch them from their copper-based service to a wireless service, even if they have no other TDM-based alternative.¹ PK noted that, to the contrary of the FCC staffer's assertion, Verizon must first apply for permission under § 214(a) before it discontinues, impairs, or reduces service to a community.² This applies to any change to the network that will "impair the adequacy or quality of service provided."³ Here, reports and filings before the New York State Public Service Commission indicate that Verizon is discontinuing its TDM-based service entirely, and its replacement Voice Link service will lack or restrict significant features like reliable connection to 9-1-1 during periods of network congestion, the ability to receive collect calls, and the ability to using calling cards, among others. Notably, the restrictions in Voice Link service are affecting and will affect entire communities as Verizon seems poised to expand its movement from wireline service to Voice Link in other states.

PK urged the Commission to ensure that accurate information is given in response to individual customer complaints about the transition to Voice Link, particularly since the number of complaints received about the service is an important data point for evaluating the quality of a new service. PK also urged the Commission to require Verizon to file its § 214(a) application by a set deadline, or else begin a proceeding requiring Verizon to explain why it did not need permission under § 214(a) to move these communities to Voice Link.

¹ Phillip Dampier, *Pennsylvania: You Are Next for Verizon Landline Migrations to Wireless; FCC Says It is Fine*, Stop the Cap! (May 14, 2013), <http://stopthecap.com/2013/05/14/pennsylvania-you-are-next-for-verizon-landline-migrations-to-wireless-fcc-says-it-is-fine/>.

² 47 U.S.C. § 214(a).

³ *Id.*

The problems surrounding Verizon's decision to replace its wireline service with Voice Link also points to a larger issue that the Commission must address. PK urged the Commission to begin a rulemaking proceeding to create a process for handling damaged networks after natural disasters. While we hope we will not see destruction like that left by Hurricane Sandy on a regular basis, unfortunately hurricanes, tornadoes, earthquakes, winter storms, strong thunderstorms, and other natural disasters occur all too frequently to ignore their impact on our communications infrastructure when it is needed most.

That is why the Commission should create a process guiding carriers' responses to damaged copper infrastructure after disasters. It seems likely that carriers may prefer to rebuild their networks with fixed wireless or VoIP services. In that case, the Commission should have a process by which carriers can inform regulators and the public what their proposed services will be and show how those services are actually equivalent to the basic service customers have come to expect. In this inquiry, the Commission should look to features like international calling, collect calls, medical alert device support, and credit card processing and faxes for businesses in particular. In its rulemaking, the Commission should solicit comment on other types of services affected by a transition from copper to fixed wireless, and on the methods of outreach necessary to locate and keep consumers informed during the response to a disaster.

While this post-disaster process is ongoing, the relevant carriers should continue to be treated as if they are operating a Title II telecommunications service. Natural disasters should not be used as opportunities for deregulation, and if anything the Commission must maintain additional vigilance to ensure that communications services are available for communities when they are most vulnerable.

Additionally, the Commission must address how network replacements like Verizon's move to Voice Link affects carriers' obligations under sections 251 and 271.⁴ PK noted that in these inquiries the Commission must look to the actual offering served, "regardless of the facilities used," to determine whether a service is a telecommunications service.⁵ In the case of Voice Link, the offering is a fixed, non-mobile wireless telephone service. Although the application of sections 251 and 271 may be complex in such a situation, the Commission could handle this issue by, for example, requiring Verizon to develop a way to segregate its traffic and treat Voice Link service as separate from standard cellular traffic. PK noted that, for section 251 unbundling requirements, carriers' obligations are not limited to copper-based networks, despite the exception for fiber. This makes it difficult to determine what the obligations of an ILEC offering a service like Voice Link are.

PK proposed that this rulemaking be limited to a process specifically for post-disaster situations because there is already a broader discussion about the transition to an IP-based phone network underway. At the same time, a clear process for disaster response would set out rules without stakeholders needing to rely solely on case-by-case decisions, so all carriers and consumers would know what to expect. This rulemaking could consider facets of this issue that will not necessarily arise in the context of Verizon's Voice Link service, but the Commission

⁴ See 47 U.S.C. §§ 251, 271.

⁵ See 47 U.S.C. § 153.

could use this rulemaking to answer all questions related to post-disaster network rebuilding in a comprehensive way. This will ensure that responses to natural disasters will be designed to protect consumers, promote competition, and encourage rebuilding.

Respectfully submitted,

/s/

Jodie Griffin

Staff Attorney

PUBLIC KNOWLEDGE